

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JEFFREY DESKOVIC,

Plaintiff,

-against-

CITY OF PEEKSKILL, PUTNAM COUNTY,  
WESTCHESTER COUNTY, DAVID LEVINE,  
THOMAS McINTYRE, WALTER BROVARSKI,  
EUGENE TUMOLO, JOHN AND JANE DOE  
SUPERVISORS, DANIEL STEPHENS, LOUIS  
ROH, MILLARD HYLAND, and ALAN TWEED,

Defendants.  
-----X

**AMENDED  
ANSWER TO FIRST  
AMENDED COMPLAINT  
AND CROSS-CLAIMS**

Docket No.  
07 Civ. 8150 (KMK)

Defendants CITY OF PEEKSKILL, DAVID LEVINE, THOMAS McINTYRE, and  
WALTER BROVARSKY, by their attorneys, MIRANDA SOKOLOFF SAMBURSKY  
SLONE VERVENIOTIS, LLP, as and for their answer to the First Amended Complaint  
(hereinafter “complaint”) in the above-captioned action, sets forth as follows:

1. Deny the allegations contained in ¶ “1” of the complaint.
2. Deny the allegations contained in ¶ “2” of the complaint.
3. Deny the allegations contained in ¶ “3” of the complaint.
4. Deny the allegations contained in ¶ “4” of the complaint.
5. Deny the allegations contained in ¶ “5” of the complaint.
6. Deny the allegations contained in ¶ “6” of the complaint.
7. Deny the allegations contained in ¶ “7” of the complaint.
8. Deny the allegations contained in ¶ “8” of the complaint.
9. Deny the allegations contained in ¶ “9” of the complaint.

10. Deny the allegations contained in ¶ “10” of the complaint.
11. Deny the allegations contained in ¶ “11” of the complaint, and refer all questions of law to the Court for adjudication.
12. Deny the allegations contained in ¶ “12” of the complaint, and refer all questions of law to the Court for adjudication.
13. Admit the allegations contained in ¶ “13” of the complaint.
14. Admit the allegations contained in ¶ “14” of the complaint.
15. Deny the allegations contained in ¶ “15” of the complaint, and refer all questions of law to the Court for adjudication.
16. Deny the allegations contained in ¶ “16” of the complaint, and refer all questions of law to the Court for adjudication.
17. Deny the allegations contained in ¶ “17” of the complaint, and refer all questions of law to the Court for adjudication.
18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “18” of the complaint.
19. Deny the allegations contained in ¶ “19” of the complaint, and refer all questions of law to the Court for adjudication.
20. Deny the allegations contained in ¶ “20” of the complaint, and refer all questions of law to the Court for adjudication.
21. Deny the allegations contained in ¶ “21” of the complaint, and refer all questions of law to the Court for adjudication.
22. Deny the allegations contained in ¶ “22” of the complaint.
23. Deny the allegations contained in ¶ “23” of the complaint.

24. Deny the allegations contained in ¶ “24” of the complaint.
25. Deny the allegations contained in ¶ “25” of the complaint.
26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “26” of the complaint.
27. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “27” of the complaint.
28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “28” of the complaint.
29. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “29” of the complaint.
30. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “30” of the complaint.
31. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “31” of the complaint.
32. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “32” of the complaint, except admit that the family of A.C. contacted the Peekskill Police Department and reported her missing.
33. Deny the allegations contained in ¶ “33” of the complaint.
34. Deny the allegations contained in ¶ “34” of the complaint.
35. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “35” of the complaint.
36. Deny the allegations contained in ¶ “36” of the complaint.
37. Deny the allegations contained in ¶ “37” of the complaint.

38. Deny the allegations contained in ¶ “38” of the complaint.
39. Deny the allegations contained in ¶ “39” of the complaint.
40. Deny the allegations contained in ¶ “40” of the complaint.
41. Deny the allegations contained in ¶ “41” of the complaint.
42. Deny the allegations contained in ¶ “42” of the complaint.
43. Deny the allegations contained in ¶ “43” of the complaint.
44. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “44” of the complaint.
45. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “45” of the complaint.
46. Deny the allegations contained in ¶ “46” of the complaint.
47. Deny the allegations contained in ¶ “47” of the complaint.
48. Deny the allegations contained in ¶ “48” of the complaint.
49. Deny the allegations contained in ¶ “49” of the complaint.
50. Deny the allegations contained in ¶ “50” of the complaint.
51. Deny the allegations contained in ¶ “51” of the complaint.
52. Deny the allegations contained in ¶ “52” of the complaint.
53. Deny the allegations contained in ¶ “53” of the complaint.
54. Deny the allegations contained in ¶ “54” of the complaint.
55. Deny the allegations contained in ¶ “55” of the complaint.
56. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “56” of the complaint.

57. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “57” of the complaint.

58. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “58” of the complaint.

59. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “59” of the complaint.

60. Deny the allegations contained in ¶ “60” of the complaint.

61. Deny the allegations contained in ¶ “61” of the complaint.

62. Deny the allegations contained in ¶ “62” of the complaint.

63. Deny the allegations contained in ¶ “63” of the complaint.

64. Deny the allegations contained in ¶ “64” of the complaint.

65. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “65” of the complaint.

66. Deny the allegations contained in ¶ “66” of the complaint.

67. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “67” of the complaint.

68. Deny the allegations contained in ¶ “68” of the complaint.

69. Deny the allegations contained in ¶ “69” of the complaint.

70. Deny the allegations contained in ¶ “70” of the complaint.

71. Deny the allegations contained in ¶ “71” of the complaint.

72. Deny the allegations contained in ¶ “72” of the complaint.

73. Deny the allegations contained in ¶ “73” of the complaint.

74. Deny the allegations contained in ¶ “74” of the complaint.

75. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “75” of the complaint.

76. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “76” of the complaint.

77. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “77” of the complaint.

78. Deny the allegations contained in ¶ “78” of the complaint.

79. Deny the allegations contained in ¶ “79” of the complaint.

80. Deny the allegations contained in ¶ “80” of the complaint.

81. Deny the allegations contained in ¶ “81” of the complaint.

82. Deny the allegations contained in ¶ “82” of the complaint.

83. Deny the allegations contained in ¶ “83” of the complaint.

84. Deny the allegations contained in ¶ “84” of the complaint.

85. Deny the allegations contained in ¶ “85” of the complaint.

86. Deny the allegations contained in ¶ “86” of the complaint.

87. Deny the allegations contained in ¶ “87” of the complaint.

88. Deny the allegations contained in ¶ “88” of the complaint.

89. Deny the allegations contained in ¶ “89” of the complaint.

90. Deny the allegations contained in ¶ “90” of the complaint.

91. Deny the allegations contained in ¶ “91” of the complaint.

92. Deny the allegations contained in ¶ “92” of the complaint.

93. Deny the allegations contained in ¶ “93” of the complaint.

94. Deny the allegations contained in ¶ “94” of the complaint.

95. Deny the allegations contained in ¶ “95” of the complaint.
96. Deny the allegations contained in ¶ “96” of the complaint.
97. Deny the allegations contained in ¶ “97” of the complaint.
98. Deny the allegations contained in ¶ “98” of the complaint.
99. Deny the allegations contained in ¶ “99” of the complaint.
100. Deny the allegations contained in ¶ “100” of the complaint.
101. Deny the allegations contained in ¶ “101” of the complaint.
102. Deny the allegations contained in ¶ “102” of the complaint.
103. Deny the allegations contained in ¶ “103” of the complaint.
104. Deny the allegations contained in ¶ “104” of the complaint.
105. Deny the allegations contained in ¶ “105” of the complaint.
106. Deny the allegations contained in ¶ “106” of the complaint.
107. Deny the allegations contained in ¶ “107” of the complaint.
108. Deny the allegations contained in ¶ “108” of the complaint.
109. Deny the allegations contained in ¶ “109” of the complaint.
110. Deny the allegations contained in ¶ “110” of the complaint.
111. Deny the allegations contained in ¶ “111” of the complaint.
112. Deny the allegations contained in ¶ “112” of the complaint.
113. Deny the allegations contained in ¶ “113” of the complaint.
114. Deny the allegations contained in ¶ “114” of the complaint.
115. Deny the allegations contained in ¶ “115” of the complaint.
116. Deny the allegations contained in ¶ “116” of the complaint.
117. Deny the allegations contained in ¶ “117” of the complaint.

118. Deny the allegations contained in ¶ “118” of the complaint.

119. Deny the allegations contained in ¶ “119” of the complaint.

120. Deny the allegations contained in ¶ “120” of the complaint.

121. Deny the allegations contained in ¶ “121” of the complaint.

122. Deny the allegations contained in ¶ “122” of the complaint.

123. Deny the allegations contained in ¶ “123” of the complaint.

124. Deny the allegations contained in ¶ “124” of the complaint.

125. Deny the allegations contained in ¶ “125” of the complaint.

126. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “126” of the complaint.

127. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “127” of the complaint.

128. Deny the allegations contained in ¶ “128” of the complaint.

129. Deny the allegations contained in ¶ “129” of the complaint.

130. Deny the allegations contained in ¶ “130” of the complaint.

131. Deny the allegations contained in ¶ “131” of the complaint.

132. Deny the allegations contained in ¶ “132” of the complaint.

133. Deny the allegations contained in ¶ “133” of the complaint.

134. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “134” of the complaint.

135. Deny the allegations contained in ¶ “135” of the complaint.

136. Deny the allegations contained in ¶ “136” of the complaint.

137. Deny the allegations contained in ¶ “137” of the complaint.



138. Deny the allegations contained in ¶ “138” of the complaint.

139. Deny the allegations contained in ¶ “139” of the complaint.

140. Deny the allegations contained in ¶ “140” of the complaint.

141. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “141” of the complaint.

142. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “142” of the complaint.

143. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “143” of the complaint.

144. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “144” of the complaint.

145. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “145” of the complaint.

146. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “146” of the complaint.

147. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “147” of the complaint.

148. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “148” of the complaint.

149. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “149” of the complaint.

150. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “150” of the complaint.

151. Deny the allegations contained in ¶ “151” of the complaint.

152. Deny the allegations contained in ¶ “152” of the complaint.

153. Deny the allegations contained in ¶ “153” of the complaint.

154. Deny the allegations contained in ¶ “154” of the complaint.

155. Deny the allegations contained in ¶ “155” of the complaint, and refer all questions of law to the Court for adjudication.

156. Deny the allegations contained in ¶ “156” of the complaint, and refer all questions of law to the Court for adjudication.

157. Deny the allegations contained in ¶ “157” of the complaint, and refer all questions of law to the Court for adjudication.

158. Deny the allegations contained in ¶ “158” of the complaint, and refer all questions of law to the Court for adjudication.

159. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “159” of the complaint.

160. Deny the allegations contained in ¶ “160” of the complaint, and refer all questions of law to the Court for adjudication.

161. Deny the allegations contained in ¶ “161” of the complaint, and refer all questions of law to the Court for adjudication.

162. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “162” of the complaint.

163. Deny the allegations contained in ¶ “163” of the complaint, and refer all questions of law to the Court for adjudication.

164. Deny the allegations contained in ¶ “164” of the complaint, and refer all questions of law to the Court for adjudication.

165. Deny the allegations contained in ¶ “165” of the complaint, and refer all questions of law to the Court for adjudication.

166. Deny the allegations contained in ¶ “166” of the complaint, and refer all questions of law to the Court for adjudication.

167. Deny the allegations contained in ¶ “167” of the complaint, and refer all questions of law to the Court for adjudication.

168. Deny the allegations contained in ¶ “168” of the complaint, and refer all questions of law to the Court for adjudication.

### **COUNT I**

169. As and for a response to the allegations contained in ¶ “169” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “168” of the complaint, as though they were fully set forth herein.

170. Deny the allegations contained in ¶ “170” of the complaint, and refer all questions of law to the Court for adjudication.

171. Deny the allegations contained in ¶ “171” of the complaint.

172. Deny the allegations contained in ¶ “172” of the complaint.

173. Deny the allegations contained in ¶ “173” of the complaint.

174. Deny the allegations contained in ¶ “174” of the complaint.

175. Deny the allegations contained in ¶ “175” of the complaint.

176. Deny the allegations contained in ¶ “176” of the complaint, and refer all questions of law to the Court for adjudication.

177. Deny the allegations contained in ¶ “177” of the complaint.

## **COUNT II**

178. As and for a response to the allegations contained in ¶ “178” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “177” of the complaint, as though they were fully set forth herein.

179. Deny the allegations contained in ¶ “179” of the complaint, and refer all questions of law to the Court for adjudication.

180. Deny the allegations contained in ¶ “180” of the complaint, and refer all questions of law to the Court for adjudication.

181. Deny the allegations contained in ¶ “181” of the complaint.

182. Deny the allegations contained in ¶ “182” of the complaint, and refer all questions of law to the Court for adjudication.

183. Deny the allegations contained in ¶ “183” of the complaint, and refer all questions of law to the Court for adjudication.

184. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “184” of the complaint.

185. Deny the allegations contained in ¶ “185” of the complaint, and refer all questions of law to the Court for adjudication.

186. Deny the allegations contained in ¶ “186” of the complaint, and refer all questions of law to the Court for adjudication.

187. Deny the allegations contained in ¶ “187” of the complaint, and refer all questions of law to the Court for adjudication.

188. Deny the allegations contained in ¶ “188” of the complaint, and refer all questions of law to the Court for adjudication.

189. Deny the allegations contained in ¶ “189” of the complaint.

### **COUNT III**

190. As and for a response to the allegations contained in ¶ “190” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “189” of the complaint, as though they were fully set forth herein.

191. Deny the allegations contained in ¶ “191” of the complaint, and refer all questions of law to the Court for adjudication.

192. Deny the allegations contained in ¶ “192” of the complaint.

193. Deny the allegations contained in ¶ “193” of the complaint, and refer all questions of law to the Court for adjudication.

194. Deny the allegations contained in ¶ “194” of the complaint, and refer all questions of law to the Court for adjudication.

195. Deny the allegations contained in ¶ “195” of the complaint, and refer all questions of law to the Court for adjudication.

196. Deny the allegations contained in ¶ “196” of the complaint.

197. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “197” of the complaint.

198. Deny the allegations contained in ¶ “198” of the complaint.

199. Deny the allegations contained in ¶ “199” of the complaint.

200. Deny the allegations contained in ¶ “200” of the complaint, and refer all questions of law to the Court for adjudication.

201. Deny the allegations contained in ¶ “201” of the complaint.

**COUNT IV**

202. As and for a response to the allegations contained in ¶ “202” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “201” of the complaint, as though they were fully set forth herein.

203. Deny the allegations contained in ¶ “203” of the complaint, and refer all questions of law to the Court for adjudication.

204. Deny the allegations contained in ¶ “204” of the complaint.

205. Deny the allegations contained in ¶ “205” of the complaint, and refer all questions of law to the Court for adjudication.

206. Deny the allegations contained in ¶ “206” of the complaint.

**COUNT V**

207. As and for a response to the allegations contained in ¶ “207” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “206” of the complaint, as though they were fully set forth herein.

208. Deny the allegations contained in ¶ “208” of the complaint, and refer all questions of law to the Court for adjudication.

209. Deny the allegations contained in ¶ “209” of the complaint, and refer all questions of law to the Court for adjudication.

210. Deny the allegations contained in ¶ “210” of the complaint, and refer all questions of law to the Court for adjudication.

211. Deny the allegations contained in ¶ “211” of the complaint.

**COUNT VI**

212. As and for a response to the allegations contained in ¶ “212” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “211” of the complaint, as though they were fully set forth herein.

213. Deny the allegations contained in ¶ “213” of the complaint, and refer all questions of law to the Court for adjudication.

214. Deny the allegations contained in ¶ “214” of the complaint, and refer all questions of law to the Court for adjudication.

215. Deny the allegations contained in ¶ “215” of the complaint, and refer all questions of law to the Court for adjudication.

216. Deny the allegations contained in ¶ “216” of the complaint, and refer all questions of law to the Court for adjudication.

**COUNT VII**

217. As and for a response to the allegations contained in ¶ “217” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “216” of the complaint, as though they were fully set forth herein.

218. Deny the allegations contained in ¶ “218” of the complaint, and refer all questions of law to the Court for adjudication.

219. Deny the allegations contained in ¶ “219” of the complaint, and refer all questions of law to the Court for adjudication.

220. Deny the allegations contained in ¶ “220” of the complaint.

**COUNT VIII**

221. As and for a response to the allegations contained in ¶ “221” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “220” of the complaint, as though they were fully set forth herein.

222. Deny the allegations contained in ¶ “222” of the complaint.

223. Deny the allegations contained in ¶ “223” of the complaint.

224. Deny the allegations contained in ¶ “224” of the complaint.

**COUNT IX**

225. As and for a response to the allegations contained in ¶ “225” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “224” of the complaint, as though they were fully set forth herein.

226. Deny the allegations contained in ¶ “226” of the complaint, and refer all questions of law to the Court for adjudication.

227. Deny the allegations contained in ¶ “227” of the complaint, and refer all questions of law to the Court for adjudication.

228. Deny the allegations contained in ¶ “228” of the complaint, and refer all questions of law to the Court for adjudication.

229. Deny the allegations contained in ¶ “229” of the complaint, and refer all questions of law to the Court for adjudication.

230. Deny the allegations contained in ¶ “230” of the complaint, and refer all questions of law to the Court for adjudication.



**COUNT X**

231. As and for a response to the allegations contained in ¶ “231” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “230” of the complaint, as though they were fully set forth herein.

232. Deny the allegations contained in ¶ “232” of the complaint, and refer all questions of law to the Court for adjudication.

233. Deny the allegations contained in ¶ “233” of the complaint, and refer all questions of law to the Court for adjudication.

234. Deny the allegations contained in ¶ “234” of the complaint, and refer all questions of law to the Court for adjudication.

235. Deny the allegations contained in ¶ “235” of the complaint, and refer all questions of law to the Court for adjudication.

236. Deny the allegations contained in ¶ “236” of the complaint, and refer all questions of law to the Court for adjudication.

237. Deny the allegations contained in ¶ “237” of the complaint, and refer all questions of law to the Court for adjudication.

238. Deny the allegations contained in ¶ “238” of the complaint, and refer all questions of law to the Court for adjudication.

239. Deny the allegations contained in ¶ “239” of the complaint, and refer all questions of law to the Court for adjudication.

240. Deny the allegations contained in ¶ “240” of the complaint, and refer all questions of law to the Court for adjudication.

241. Deny the allegations contained in ¶ “241” of the complaint.

**COUNT XI**

242. As and for a response to the allegations contained in ¶ “242” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “240” of the complaint, as though they were fully set forth herein.

243. Deny the allegations contained in ¶ “243” of the complaint, and refer all questions of law to the Court for adjudication.

244. Deny the allegations contained in ¶ “244” of the complaint, and refer all questions of law to the Court for adjudication.

245. Deny the allegations contained in ¶ “245” of the complaint, and refer all questions of law to the Court for adjudication.

246. Deny the allegations contained in ¶ “246” of the complaint.

**COUNT XII**

247. As and for a response to the allegations contained in ¶ “247” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “246” of the complaint, as though they were fully set forth herein.

248. Deny the allegations contained in ¶ “248” of the complaint, and refer all questions of law to the Court for adjudication.

249. Deny the allegations contained in ¶ “249” of the complaint, and refer all questions of law to the Court for adjudication.

250. Deny the allegations contained in ¶ “250” of the complaint, and refer all questions of law to the Court for adjudication.

251. Deny the allegations contained in ¶ “251” of the complaint, and refer all questions of law to the Court for adjudication.

252. Deny the allegations contained in ¶ “252” of the complaint, and refer all questions of law to the Court for adjudication.

253. Deny the allegations contained in ¶ “253” of the complaint, and refer all questions of law to the Court for adjudication.

254. Deny the allegations contained in ¶ “254” of the complaint, and refer all questions of law to the Court for adjudication.

255. Deny the allegations contained in ¶ “255” of the complaint, and refer all questions of law to the Court for adjudication.

256. Deny the allegations contained in ¶ “256” of the complaint, and refer all questions of law to the Court for adjudication.

257. Deny the allegations contained in ¶ “257” of the complaint, and refer all questions of law to the Court for adjudication.

258. Deny the allegations contained in ¶ “258” of the complaint.

### **COUNT XIII**

259. As and for a response to the allegations contained in ¶ “259” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “258” of the complaint, as though they were fully set forth herein.

260. Deny the allegations contained in ¶ “260” of the complaint, and refer all questions of law to the Court for adjudication.

261. Deny the allegations contained in ¶ “261” of the complaint, and refer all questions of law to the Court for adjudication.

262. Deny the allegations contained in ¶ “262” of the complaint, and refer all questions of law to the Court for adjudication.

**COUNT XIV**

263. As and for a response to the allegations contained in ¶ “263” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “262” of the complaint, as though they were fully set forth herein.

264. Deny the allegations contained in ¶ “264” of the complaint, and refer all questions of law to the Court for adjudication.

265. Deny the allegations contained in ¶ “265” of the complaint, and refer all questions of law to the Court for adjudication.

266. Deny the allegations contained in ¶ “266” of the complaint, and refer all questions of law to the Court for adjudication.

**COUNT XV**

267. As and for a response to the allegations contained in ¶ “267” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “266” of the complaint, as though they were fully set forth herein.

268. Deny the allegations contained in ¶ “268” of the complaint, and refer all questions of law to the Court for adjudication.

269. Deny the allegations contained in ¶ “269” of the complaint, and refer all questions of law to the Court for adjudication.

**COUNT XVI**

270. As and for a response to the allegations contained in ¶ “270” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “269” of the complaint, as though they were fully set forth herein.

271. Deny the allegations contained in ¶ “271” of the complaint, and refer all questions of law to the Court for adjudication.

272. Deny the allegations contained in ¶ “272” of the complaint, and refer all questions of law to the Court for adjudication.

### **COUNT XVII**

273. As and for a response to the allegations contained in ¶ “273” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “272” of the complaint, as though they were fully set forth herein.

274. Deny the allegations contained in ¶ “274” of the complaint, and refer all questions of law to the Court for adjudication.

275. Deny the allegations contained in ¶ “275” of the complaint, and refer all questions of law to the Court for adjudication.

### **FIRST AFFIRMATIVE DEFENSE**

276. Plaintiff’s complaint fails to state a claim upon which relief may be granted.

### **SECOND AFFIRMATIVE DEFENSE**

277. The individual defendants are entitled to absolute immunity.

### **THIRD AFFIRMATIVE DEFENSE**

278. The individual defendants are entitled to qualified immunity.

### **FOURTH AFFIRMATIVE DEFENSE**

279. Plaintiff’s claims are barred by res judicata and/or collateral estoppel.

### **FIFTH AFFIRMATIVE DEFENSE**

280. Plaintiff has failed to pursue appropriate administrative or state law remedies.

**SIXTH AFFIRMATIVE DEFENSE**

281. Plaintiff's procedural due process claim is barred by the availability of state law remedies.

**SEVENTH AFFIRMATIVE DEFENSE**

282. Plaintiff has failed to mitigate his damages.

**EIGHTH AFFIRMATIVE DEFENSE**

283. Plaintiff's claims against the Peekskill defendants are barred because plaintiff cannot demonstrate that any of their actions caused plaintiff to suffer damages.

**NINTH AFFIRMATIVE DEFENSE**

284. Plaintiff's claims are barred, in whole or in part, by the statute of limitations.

**TENTH AFFIRMATIVE DEFENSE**

285. Plaintiff's damages were caused or contributed to by ineffective assistance of counsel at all stages of plaintiff's prosecution.

**ELEVENTH AFFIRMATIVE DEFENSE**

286. Plaintiff's damages were caused or contributed to by professional legal malpractice committed by his attorneys at all stages of plaintiff's prosecution.

**TWELFTH AFFIRMATIVE DEFENSE**

287. Plaintiff's damages were caused or contributed to by a conflict of interest on the part of the attorneys representing plaintiff during his prosecution.

**THIRTEENTH AFFIRMATIVE DEFENSE**

288. Plaintiff's damages were caused or contributed to by the fact that the attorney representing plaintiff in connection with a possible *habeas corpus* petition committed professional malpractice.

**FOURTEENTH AFFIRMATIVE DEFENSE**

289. Plaintiff's arrest and detention by defendants was lawful, privileged, and authorized by New York State CPL. § 140.10.

**FIFTEENTH AFFIRMATIVE DEFENSE**

290. Defendants had probable cause to arrest plaintiff.

**SIXTEENTH AFFIRMATIVE DEFENSE**

291. The injuries, losses, damages, and occurrences alleged in plaintiff's complaint were the result of an independent and intervening cause or causes over which the answering defendants had no control or right to control and in no way participated.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

292. If plaintiff has been injured and damaged as alleged in the complaint, such injury and damage were caused and contributed to by plaintiff's own conduct, negligence, carelessness, or want of care; and, if it be determined that plaintiff is entitled to recovery herein as against answering defendant, such recovery should be apportioned between plaintiff and answering defendant according to their relative responsibility therefor.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

293. If plaintiff has been damaged or injured as alleged in the complaint, and such damage or injury was not sustained solely as a result of plaintiff's own negligence, carelessness, culpable conduct, or want of care, such damage and injury were brought about by the negligence, carelessness, culpable conduct, want of care, and intentional acts of third parties over whom the answering defendants had no control and for whose negligence, carelessness, want of care, and intentional criminal acts the answering defendant is not responsible.

**NINETEENTH AFFIRMATIVE DEFENSE**

294. All hazards and risks incident to the circumstances set forth in plaintiff's complaint were obvious and apparent, and were readily assumed by plaintiff.

**TWENTIETH AFFIRMATIVE DEFENSE**

295. If any liability is found as against answering defendants, this liability will constitute fifty percent (50%) or less of all liability assigned to all parties liable, and, as such, the liability of answering defendants to plaintiff for non-economic loss shall be limited, and shall not exceed answering defendants' equitable share, as provided in C.P.L.R. Article 16.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

296. Defendants had reasonable cause to believe that plaintiff had committed the crime for which plaintiff was arrested and charged.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

297. Plaintiff was not deprived of any constitutional or civil rights pursuant to a policy, practice, custom, or procedure of the City of Peekskill.

**AS AND FOR A FIRST CROSS-CLAIM  
AGAINST DEFENDANTS PUTNAM  
COUNTY, WESTCHESTER COUNTY,  
DANIEL STEPHENS, LOUIS ROH,  
MILLARD HYLAND, GEORGE BOLEN  
AND ALAN TWEED, DEFENDANTS  
ALLEGE:**

298. If plaintiff sustained any injuries as alleged, other than through his own negligence, and if the answering defendants are found liable to plaintiff for any portion of those damages, then such liability shall derive from the carelessness, recklessness, negligence or intentional acts, or commissions or omissions, on the part of the co-defendants Putnam County, Westchester County, Daniel Stephens, Louis Roh, Millard Hyland, and Alan Tweed,



without any carelessness, recklessness, negligence or intentional acts, or commissions or omissions on the part of the answering defendants and, accordingly, the answering defendants are entitled to common-law and/or contractual indemnification over and against co-defendants Putnam County, Westchester County, Daniel Stephens, Louis Roh, Millard Hyland, and Alan Tweed for the amount of any such award.

**AS AND FOR A SECOND CROSS-  
CLAIM AGAINST DEFENDANTS  
PUTNAM COUNTY, WESTCHESTER  
COUNTY, DANIEL STEPHENS, LOUIS  
ROH, MILLARD HYLAND, GEORGE  
BOLEN, AND ALAN TWEED,  
DEFENDANTS ALLEGE:**

299. If plaintiff sustained the damages in the manner and at the time and place alleged through any carelessness, recklessness, negligence or intentional acts, or commissions or omissions other than plaintiff's own, then said damages were sustained in whole or in part by reason of the carelessness, recklessness, negligence or intentional acts, or commissions or omissions on the part of co-defendants Putnam County, Westchester County, Daniel Stephens, Louis Roh, Millard Hyland, and Alan Tweed, and, if any judgment is recovered herein against the answering defendants then the answering defendants would be damaged thereby and would be entitled to contribution on the basis of apportionment of responsibility for the alleged occurrence and entitled to judgment over and against co-defendants Putnam County, Westchester County, Daniel Stephens, Louis Roh, Millard Hyland, and Alan Tweed, for all or part of any verdict or judgment that plaintiff may recover against the answering defendant, together with costs, disbursements and attorneys' fees for this action.

Dated: Mineola, New York  
July 2, 2008

MIRANDA SOKOLOFF SAMBURSKY  
SLONE VERVENIOTIS, LLP  
Attorneys for Defendants CITY OF  
PEEKSKILL, DAVID LEVINE, THOMAS  
McINTYRE, and WALTER BROVARSKY

By:   
BRIAN S. SOKOLOFF (bss-7147)

240 Mineola Boulevard  
The Esposito Building  
Mineola, New York 11501  
(516) 741-7676  
Our File No. 07-203

TO: COCHRAN, NEUFELD & SCHECK, LLP  
Attorneys for Plaintiff  
99 Hudson Street  
New York, New York 10013

OXMAN TULIS KIRKPATRICK WHYATT & GEIGER LLP  
Attorneys for Westchester County Defendants  
120 Bloomingdale Road  
White Plains, New York 10605

SANTANGELO, RANDAZZO & MANGONE  
Attorneys for Putnam County Defendants  
151 Broadway  
Hawthorne, New York 10532

STILLMAN, FRIEDMAN & SCHECTMAN, P.C.  
Attorneys for Defendant Tumolo  
425 Park Avenue  
New York, New York 10022

NEW YORK STATE DEPARTMENT OF LAW  
Attorneys for Defendant Tweed  
120 Broadway  
New York, New York 10271